

REMARKS

This Application has been carefully reviewed in light of the Final Office Action dated July 26, 2007 ("Final Office Action") and the Decision on Appeal dated June 15, 2011 ("Appeal Decision"). Applicants respectfully request reconsideration and favorable action in this case.

Section 112 Rejections

In the Final Office Action, the Examiner rejected Claims 20-25 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. *Final Office Action* at 2. The Board of Patent Appeals and Interferences ("the Board") sustained the rejection in the Appeal Decision because the Appellant's Brief did not present any arguments with respect to this rejection. *See Appeal Decision* at 5. Applicants respectfully request reconsideration of Claims 20-25 for at least the following reasons.

Applicants refer the Examiner to the detailed description (p. 13, ll. 13-18; p. 17, l. 21 - p. 18, l. 3; and p. 18, l. 24 - p. 19, l. 24) to address the issues posed by the Examiner in the Final Office Action. As cited in the claims, the **ingress IP packets** are "segment[ed] . . . at a CPE interface of an access network into ingress asynchronous transport mode (ATM) adaption layer (AAL) cells" and the **ingress AAL cells** are "aggregate[ed] . . . in the access network into a single combined traffic stream without regard to any destination of any packet from the customer premises equipment." With respect to the egress packets, the **egress IP packets** are "segment[ed] . . . at a network interface into egress AAL cells" and the **egress AAL cells** are "provid[ed] . . . to the customer premises equipment," as recited in Claim 20. Applicants respectfully submit that Claims 20-25 comply with 35 U.S.C. § 112, second paragraph and request reconsideration and allowance of Claims 20-25.

In the Final Office Action, the Examiner rejected Claims 1, 3-7, 9-16, 18-33, 35-38 and 40 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description and enablement requirements. *Final Office Action* at 2-3. The Board sustained the rejection in the Appeal Decision because the Appellant's Brief did not present any arguments with respect to this rejection. *See Appeal Decision* at 5. In the Final Office Action, the Examiner states that "[n]o where in the specification does it teach that the traffic

streams are aggregated and sent without regard to path.” *Final Office Action* at 2. However, this misstates the claim limitations. For example, Claim 1 recites “**aggregating** the ingress traffic streams into a single combined traffic stream **without regard to any destination of any packet from any ingress traffic stream**; and transmitting the combined traffic stream to a backbone network for routing.” As shown in the above, “without regard to any destination of any packet from any ingress traffic stream” modifies “**aggregating**.” Support for the claim limitations can be found throughout the detailed description (*see, e.g.*, p. 13, ll. 3-18). For at least these reasons, Applicants respectfully submit that Claims 1, 3-7, 9-16, 18-33, 35-38 and 40 comply with 35 U.S.C. § 112, first paragraph and request reconsideration and allowance of Claims 1, 3-7, 9-16, 18-33, 35-38 and 40.

Section 102 Rejections

The Examiner rejected Claims 1, 3-7, 9-16, 18, and 19 under 35 U.S.C. § 102(e) as being anticipated by *Keller-Tuberg*. *Final Office Action* at 3. In the Appeal Decision, the Board did not sustain the § 102 rejection as being anticipated by *Keller-Tuberg*. Accordingly, Claims 1, 3-7, 9-16, 18, and 19 are allowable over the cited reference.

Section 103 Rejections

The Examiner rejected Claims 20-25 under 35 U.S.C. § 103(a) as being unpatentable over *Keller-Tuberg* in view of *Kshirsagar*. *Final Office Action* at 7. Claims 26-33, 35-38, and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Keller-Tuberg*. *Final Office Action* at 9. In the Appeal Decision, the Board did not sustain the § 103 rejections. Accordingly, Claims 20-25, 26-33, 35-38, and 40 are allowable over the cited references.

No Waiver

All of Applicants’ arguments are without prejudice or disclaimer. Applicants reserve the right to discuss the distinctions between the cited references and the claims in a later response or on appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner’s additional statements. The exemplary arguments offered by Applicants are sufficient to overcome the rejections.

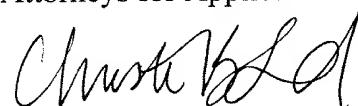
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is authorized to charge \$810.00 for this RCE to Deposit Account No. 02-0384 of Baker Botts, L.L.P. No other fees are believed to be due; however, the Commissioner is hereby authorized to charge any fees or credits to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

Respectfully submitted,

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